



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

File: EAC-97-109-52718

Office: Vermont Service Center

Date:

DEC 11 2000

IN RE: Petitioner:
Beneficiary:

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act, 8 U.S.C. 1153(b)(4)

IN BEHALF OF PETITIONER:

Public Copy

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Mary C. Mulrean, Acting Director
Administrative Appeals Office

Identifying data deleted to
prevent clearly unwarranted
disclosure of personal information

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center. The Associate Commissioner for Examinations dismissed an appeal from the decision. The matter is now before the Associate Commissioner on motion to reconsider. The motion will be dismissed.

The petitioner is a church that seeks classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1153(b)(4), to serve as a junior pastor.

The center director denied the petition in a decision dated July 9, 1997. The Associate Commissioner dismissed an appeal from that decision finding that the petitioner had failed to establish that it had made a valid job offer to the beneficiary or that the prospective occupation was a religious occupation. The Associate Commissioner also found that the petitioner had failed to establish the beneficiary's requisite two-year membership in its denomination.

On motion, counsel submitted a brief in which he argued that the beneficiary does qualify for the benefit sought.

8 C.F.R. 103.5(a)(1)(i) requires that any motion to reconsider be filed by the petitioner within 30 days of the decision that the motion seeks to reconsider.

The appeal was dismissed in a decision dated November 17, 1998. The petitioner submitted the motion to the Associate Commissioner. The Associate Commissioner's previous decision clearly instructed the petitioner to file the motion with the office which originally decided its case. The motion was properly filed at the Vermont Service Center on January 19, 1999. The respondent's motion was untimely filed and will be dismissed.

ORDER: The motion is dismissed.